STUART H. FINKELSTEIN
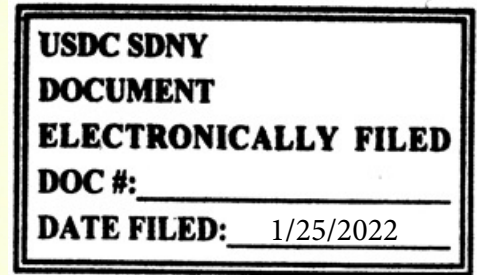
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January 25th, 2022

Judge Stewart Aaron
Southern District of New York
Daniel Patrick Moynihan
United States District Court
500 Pearl Street - Courtroom 11C
New York, New York 10007

> Re: Antolini vs. McCloskey, et al
> Case No.: 1:19-cv-09038-GBD

Dear Judge Aaron,

To remind the Court, respectfully, I represent Plaintiff in this matter and write to request a one-week extension of time to submit Plaintiff's opposition to defendants' motion for summary judgment.

By way of background, defendants moved for summary judgment on January 3, 2022. *See* Dkt. No. 268. After considering the parties' submissions pertaining to a briefing schedule, the Court set Plaintiff's deadline to oppose the motion as February 1, 2022 and defendants' deadline to reply as February 15, 2022. *See* Dkt. No. 275.

Plaintiff requests a one-week extension of the controlling briefing schedule. This would make Plaintiff's opposition due on February 8, 2022 and defendants' reply due on February 22, 2022. This extension still guarantees defendants the same amount of time to reply as originally set forth and therefore there is no prejudice to the defendants. Further, this request is of no prejudice to defendants based on the limited nature of the extension. As Plaintiff has highlighted, this Court has routinely set summary judgment briefing schedules where the non-moving party's time to oppose has been longer than 36 days (the time that would be allotted to Plaintiff here based on defendants' original submission of January 3, 2022 and Plaintiff's opposition being due on February 8, 2022). *See* Dkt. No. 274 at 2 (collecting cases where non-moving party's summary judgment opposition deadline ranging from 42 days to 132 days).

Plaintiff makes this request due to the current underwhelming health of his counsel. Plaintiff's counsel was confirmed positive for COVID-19 and the road to recovery has not been easy. Plaintiff's counsel is continually getting better and has a positive prognosis. He is simply recovering from a virus that has infected hundreds of millions of people worldwide.

As Plaintiff noted at Dkt. No. 275, both Plaintiff and his counsel have had run-ins with the virus ('run-ins' meaning family member diagnosis) and as the Court is well aware, life has been made exponentially more difficult by it. As a solo practitioner with immuno-compromised family members living with him, Plaintiff's counsel sincerely hopes that the

Court be willing to allocate just seven more days to respond to the instant motion. This case *is in its third calendar year* and one more week of time to respond to a motion that (baselessly) seeks to end this three-year long case does not hurt anyone and ensures that Plaintiff's opposition provides the detail and attention necessary to properly oppose the motion.

Plaintiff's request is not unreasonable or prejudicial. Plaintiff prays that this Court must allow him the appropriate time to attempt to defeat this motion, stave off summary judgment, and finally proceed to trial.

Plaintiff makes this request while making sure to note that he will not make another request for any extension regarding this motion.

Thank you for your attention to this matter.

Very truly yours,

Stuart H. Finkelstein

ENDORSEMENT: Plaintiff's request is in violation of the Court's Individual Practices, which require that a party seeking an extension state "whether all affected parties consent; and . . . if not, the reasons given for refusing." Plaintiff's repeated violations of the Court's Individual Practices no longer will be tolerated. If Plaintiff again violates such Practices, sanctions will be imposed. Nevertheless, in the circumstances, the Court hereby grants Plaintiff his final extension. Plaintiff's opposition shall be filed no later than February 8, 2022 and Defendants' reply shall be filed no later than February 22, 2022. SO ORDERED.
Dated: 1/25/2022

Stuart J. Aaron

SHF/tc
To all via ECF